

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

VICTOR HERNANDEZ et al.,

Plaintiffs,

v.

U.S. BANK, N.A. et al.,

Defendants.

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Civil Action No. 3:13-cv-2164-O

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. Plaintiffs filed objections. The Court has conducted a *de novo* review of those portions of the proposed findings and recommendation to which objection was made. The Court finds that the Findings, Conclusions, and Recommendation of the United States Magistrate Judge are correct. Accordingly, Plaintiffs' objections are **OVERRULED**, and the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge as the findings of the Court.

It is **THEREFORE ORDERED** that Defendants' Motion to Dismiss (ECF No. 6) is **GRANTED** with respect to Plaintiffs' claims regarding: (1) violations of the Real Estate Settlement Procedures Act; (2) breach of contract based on Defendants' alleged waiver; (3) unjust enrichment; (4) negligence; (5) negligent misrepresentation; (6) violations of the Texas Debt Collection Act; (7) suit to quiet title; and (8) trespass to try title, and these claims are **DISMISSED with prejudice**. As to the above claims, Plaintiffs' Motion for Leave (ECF No. 19) is **DENIED**.

Defendant's Motion to Dismiss (ECF No. 6) is **DENIED** with respect to Plaintiffs' claims regarding: (1) violations of the Texas Property Code; (2) breach of contract based on Defendants' failure to give notice; and (3) fraud. The Motion to Dismiss is also **DENIED** with respect to Plaintiffs' requested remedies of: (1) declaratory judgment; and (2) an accounting. Plaintiffs' Motion For Leave (ECF No. 19) should be **GRANTED** in part to permit these claims and remedies to proceed and to grant leave for Plaintiff to file an amended complaint that includes only these claims and remedies on or before **December 30, 2013**.

SO ORDERED on this **27th day of December, 2013**.


Reed O'Connor
UNITED STATES DISTRICT JUDGE